

**TWELFTH JUDICIAL DISTRICT COURT
COUNTY OF OTERO
STATE OF NEW MEXICO**

FILED
DISTRICT COURT OF
OTERO COUNTY, N.M.
2010 AUG 17 PM 1:25
JAN PERRY

TRANSCRIPT OF JUDGMENT

CLERK _____ BY _____

CASE NUMBER: CV-2008-76 DIV. II

NATURE OF ACTION: Counterclaim for Violation of Subdivision Act

JUDGMENT CREDITORS: Belleview Valley Land Co., John Williams and Ellen Bl. Williams

JUDGMENT DEBTOR: FRED VAN WINKLE

AMOUNT OF JUDGMENT

DAMAGES	COSTS	TOTAL	RATE OF INTEREST
\$234,944.31 plus Attorney Fees to be determined by the Court.	\$640.99	\$235,585.30 + costs plus Attorney Fees to be determined by the Court.	8.75% per annum calculated from July 23, 2010.

DATE OF JUDGMENT:

HOW SATISFIED & REMARKS

August 13, 2010	
ATTORNEY FOR JUDGMENT CREDITOR:	
W. T. Martin, Jr. Martin, Dugan & Martin 509 W. Pierce St. P.O. Box 2168 Carlsbad, NM 88221-2168 (575) 887-3528 Fax (575) 887-2136	

EXHIBIT "A"

United States Bankruptcy Court
District of New Mexico
Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle): Van Winkle, Fred Dale	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all) xxx-xx-9361	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): 702 White Mountain, #11 Ruidoso, NM <div style="text-align: right;">ZIP Code 88355</div>	Street Address of Joint Debtor (No. and Street, City, and State): <div style="text-align: right;">ZIP Code</div>
County of Residence or of the Principal Place of Business: Lincoln	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): PO Box 1691 Ruidoso, NM <div style="text-align: right;">ZIP Code 88355</div>	Mailing Address of Joint Debtor (if different from street address): <div style="text-align: right;">ZIP Code</div>

 Location of Principal Assets of Business Debtor
 (if different from street address above):

Type of Debtor (Form of Organization) (Check one box) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	Nature of Business (Check one box) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding
Chapter 15 Debtors Country of debtor's center of main interests: Each country in which a foreign proceeding by, regarding, or against debtor is pending:	Tax-Exempt Entity (Check box, if applicable) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	Nature of Debts (Check one box) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.

Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.	Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every three years thereafter). Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
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Statistical/Administrative Information <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.											
Estimated Number of Creditors <table style="width: 100%; text-align: center;"> <tr> <td><input checked="" type="checkbox"/> 1-49</td> <td><input type="checkbox"/> 50-99</td> <td><input type="checkbox"/> 100-199</td> <td><input type="checkbox"/> 200-999</td> <td><input type="checkbox"/> 1,000-5,000</td> <td><input type="checkbox"/> 5,001-10,000</td> <td><input type="checkbox"/> 10,001-25,000</td> <td><input type="checkbox"/> 25,001-50,000</td> <td><input type="checkbox"/> 50,001-100,000</td> <td><input type="checkbox"/> OVER 100,000</td> </tr> </table>		<input checked="" type="checkbox"/> 1-49	<input type="checkbox"/> 50-99	<input type="checkbox"/> 100-199	<input type="checkbox"/> 200-999	<input type="checkbox"/> 1,000-5,000	<input type="checkbox"/> 5,001-10,000	<input type="checkbox"/> 10,001-25,000	<input type="checkbox"/> 25,001-50,000	<input type="checkbox"/> 50,001-100,000	<input type="checkbox"/> OVER 100,000
<input checked="" type="checkbox"/> 1-49	<input type="checkbox"/> 50-99	<input type="checkbox"/> 100-199	<input type="checkbox"/> 200-999	<input type="checkbox"/> 1,000-5,000	<input type="checkbox"/> 5,001-10,000	<input type="checkbox"/> 10,001-25,000	<input type="checkbox"/> 25,001-50,000	<input type="checkbox"/> 50,001-100,000	<input type="checkbox"/> OVER 100,000		
Estimated Assets <table style="width: 100%; text-align: center;"> <tr> <td><input type="checkbox"/> \$0 to \$50,000</td> <td><input type="checkbox"/> \$50,001 to \$100,000</td> <td><input checked="" type="checkbox"/> \$100,001 to \$500,000</td> <td><input type="checkbox"/> \$500,001 to \$1 million</td> <td><input type="checkbox"/> \$1,000,001 to \$10 million</td> <td><input type="checkbox"/> \$10,000,001 to \$50 million</td> <td><input type="checkbox"/> \$50,000,001 to \$100 million</td> <td><input type="checkbox"/> \$100,000,001 to \$500 million</td> <td><input type="checkbox"/> \$500,000,001 to \$1 billion</td> <td><input type="checkbox"/> More than \$1 billion</td> </tr> </table>		<input type="checkbox"/> \$0 to \$50,000	<input type="checkbox"/> \$50,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$500,000	<input type="checkbox"/> \$500,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$10 million	<input type="checkbox"/> \$10,000,001 to \$50 million	<input type="checkbox"/> \$50,000,001 to \$100 million	<input type="checkbox"/> \$100,000,001 to \$500 million	<input type="checkbox"/> \$500,000,001 to \$1 billion	<input type="checkbox"/> More than \$1 billion
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Estimated Liabilities <table style="width: 100%; text-align: center;"> <tr> <td><input type="checkbox"/> \$0 to \$50,000</td> <td><input type="checkbox"/> \$50,001 to \$100,000</td> <td><input checked="" type="checkbox"/> \$100,001 to \$500,000</td> <td><input type="checkbox"/> \$500,001 to \$1 million</td> <td><input type="checkbox"/> \$1,000,001 to \$10 million</td> <td><input type="checkbox"/> \$10,000,001 to \$50 million</td> <td><input type="checkbox"/> \$50,000,001 to \$100 million</td> <td><input type="checkbox"/> \$100,000,001 to \$500 million</td> <td><input type="checkbox"/> \$500,000,001 to \$1 billion</td> <td><input type="checkbox"/> More than \$1 billion</td> </tr> </table>		<input type="checkbox"/> \$0 to \$50,000	<input type="checkbox"/> \$50,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$500,000	<input type="checkbox"/> \$500,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$10 million	<input type="checkbox"/> \$10,000,001 to \$50 million	<input type="checkbox"/> \$50,000,001 to \$100 million	<input type="checkbox"/> \$100,000,001 to \$500 million	<input type="checkbox"/> \$500,000,001 to \$1 billion	<input type="checkbox"/> More than \$1 billion
<input type="checkbox"/> \$0 to \$50,000	<input type="checkbox"/> \$50,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$500,000	<input type="checkbox"/> \$500,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$10 million	<input type="checkbox"/> \$10,000,001 to \$50 million	<input type="checkbox"/> \$50,000,001 to \$100 million	<input type="checkbox"/> \$100,000,001 to \$500 million	<input type="checkbox"/> \$500,000,001 to \$1 billion	<input type="checkbox"/> More than \$1 billion		

THIS SPACE IS FOR COURT USE ONLY

EXHIBIT "B"

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In Re: Fred Dale Van Winkle,

Debtor.

No. 13-11743-J7

TRUSTEE'S MOTION TO SELL PROPERTY
OF THE ESTATE

CLARKE C. COLL, CHAPTER 7 TRUSTEE HEREIN, by his undersigned attorney, moves this Court for an Order authorizing the sale of property of the estate as follows: Debtor's 1/2 undivided interest in 311.2 acres of farmland located in Roosevelt County, New Mexico, described as follows:

The Northeast quarter (NE1/4) of Section Twenty Three (23), and the Northwest quarter (NW1/4) of Section Twenty Four (24), all in Township 2 South of Range Thirty Two (32) East, N.M.P.M.;

Said sale being to Debtor's daughter, Tammy Sprague ("Buyer") for a sales price of \$12,500.00 payable immediately upon Court Approval of Sale; and would show the Court the following:

1. Debtor filed his voluntary petition under Chapter 7 on May 21, 2013; Clarke C. Coll is the duly appointed Chapter 7 Trustee.

2. At the time of the filing of the petition herein, Debtor was the owner of a 1/2 undivided interest in farmland located in Roosevelt County, New Mexico. Debtor's Schedules identify his interest as "1/2 interest in 311.3 acres of farmland (292.9 acres are in CRP) = held jointly with sister-in-law located in Portales, NM - value based on current market is \$150.00 an acre." Upon information and belief, there are no liens on the property. To the extent there are any liens, Buyer is purchasing the property "as is,

EXHIBIT "C"

where is" with no warranty of title and subject to liens, if any. There is non-exempt equity in the property that cannot be protected by the Debtor.

3. Buyer has offered to purchase said interest in real property from the estate for \$12,500.00 payable in cash upon entry of Order approving said sale. Buyer has agreed to purchase the subject property "as is, where is" with no warranty of title and property to be conveyed by Trustee's Deed with no warranty and subject to liens, if any. The Trustee has accepted this offer subject to court approval.

4. Trustee recognizes that undivided interests in real estate are difficult to sell. Trustee believes the purchase price is reasonable. The estate will not have any sales costs or closing costs. Thus, all proceeds from the sale will go directly to the estate. The Trustee believes that this sale will result in a maximum benefit to this estate and will expedite closing of this estate.

5. The Trustee believes that the above-referenced offer is reasonable and recommends that the Court approve this sale.

WHEREFORE, the Trustee moves this Court for an Order authorizing sale of the real property described herein to Tammy Sprague under the terms and conditions as set forth hereinabove and for such other relief as is just.

Respectfully submitted:
Coll Bros. Law, LLC
Clarke C. Coll/S/Submitted Electronically
Clarke C. Coll
Attorney for Trustee
P O Box 2288
Roswell, NM 88202
(575) 623-2288

I hereby certify that on 19th day of September 2014, I electronically filed with the Court via the CM/ECF system this pleading and all attorneys and parties identified with the court for electronic service on the record in this case were served by electronic service in accordance with the CM/ECF system.

Clarke C. Coll/S/Submitted Electronically



IT IS ORDERED

Date Entered on Docket: October 15, 2014

**The Honorable Robert H Jacobvitz
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In Re: Fred Dale Van Winkle,

Debtor.

No. 13-11743-J7

**ORDER AUTHORIZING TRUSTEE
TO SELL PROPERTY OF THE ESTATE**

THIS MATTER came on before the Court on the Trustee's Motion to Sell Property of the Estate filed herein on September 19, 2014 (DOC 38).

The Court FINDS that notice of the filing of said Motion was mailed to all creditors and parties in interest herein on September 19, 2014 (DOC 39); that the deadline for filing objections to said Motion, including 3 days for mailing expired on October 14, 2014; no objections or responsive pleadings have been filed. It is therefore

ORDERED that the Trustee's Motion is granted and Trustee is authorized to sell the property of the estate to Tammy Sprague for \$12,500.00 upon the terms and conditions set forth in the Motion, payable in cash upon entry of this Order.

END OF ORDER

EXHIBIT "D"

Submitted by:
Coll Bros. Law, LLC
Clarke C. Coll/S/Submitted Via Order Upload
Clarke C. Coll
Attorney for Trustee
P O Box 2288
Roswell, NM 88202
(575) 623-2288

Copy to:
Office of the US Trustee
P O Box 608
Albuquerque, NM 87103

TRUSTEE'S DEED

THIS INDENTURE, made this 30th day of March, 2015, between CLARKE C. COLL as Trustee of the Estate of Fred Dale Van Winkle, Debtor, filed in the United States Bankruptcy Court for the District of New Mexico, Case#13-11743-j7, party of the first part, and TAMMY SPRAGUE, party of the second part, witnesseth, that:

Whereas, the Trustee was appointed in the above-named bankruptcy estate on May 21, 2013; On September 19, 2014 said Trustee filed a Motion to Sell Property of The Estate (DOC 38); the Bankruptcy Court on October 15, 2014 entered its Order Authorizing Trustee to Sell the subject property (DOC 44); and in furtherance of said Order, the Trustee hereby conveys the Estate's interest in the real property described below.

Now, therefore, I, Clarke C. Coll, Bankruptcy Trustee, by the virtue of the power and authority in me vested, as aforesaid, and in consideration of the sum of twelve thousand, five hundred dollars (\$12,500.00), to me paid by the party of the second part, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the party of the second part, and her assigns, forever, all of the interest which the Debtor, Fred Dale Van Winkle, had on the date of the filing of the aforementioned bankruptcy proceeding, that being May 21, 2013, in the following described property:

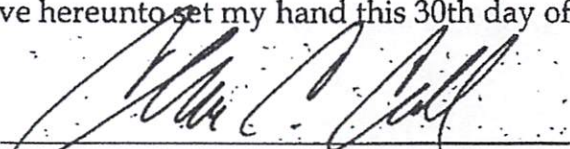
1/2 undivided interest in 311.2 acres of farmland located in Roosevelt County, New Mexico, described as follows: The Northeast quarter (NE1/4) of Section Twenty Three (23), and the Northwest quarter (NW1/4) of Section Twenty Four (24), all in Township 2 South of Range Thirty Two (32) East, N.M.P.M.

together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining; and the reservation and reservations, remainder and remainders, rents, issues and profits thereof.

To have and to hold the said above-bargained premises, with the appurtenances, and every part thereof, unto the party of the second part, and her assigns, to her and her own property use; as fully and absolutely as the party of the first part can and ought to do pursuant to the statutes and his authority. This sale and conveyance is made without any representations or warranties of any kind.

In witness whereof, I, as such Trustee have hereunto set my hand this 30th day of March, 2015.

Dated: March 30, 2015


Clarke C. Coll, Bankruptcy Trustee of
the Estate of Fred Dale Van Winkle,
Case#13-11743-j7

20152276 08/10/2015 10:12:00 AM
Page: 1 of 3 Fee: 25.00 DEED
DeRun D Searl, Roosevelt Co. Clk., Roosevelt, NM

EXHIBIT "E"